

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

January 28, 1999

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. §1324a Proceeding
	)	OCAHO Case no. 98A00084
UNION LAKEVILLE CORPORATION	)	
d/b/a SKYLINE DINER RESTAURANT,	)	
Respondent.	)	
_____	)	

FINAL DECISION AND ORDER

Appearances: Paul Szeto, Esquire  
Immigration and Naturalization Service for complainant

William Psaros, President  
Union Lakeville Corporation for respondent

Before: Honorable Joseph E. McGuire

On August 10, 1998, complainant, acting by and through the Immigration and Naturalization Service (INS), commenced this action, which arises under the Immigration Reform and Control Act of 1986 (IRCA), as amended, 8 U.S.C. § 1324a, by having filed a three-count Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO).

That initiating pleading contained 24 alleged IRCA paperwork violations, for which civil money penalties totaling \$8,840 had been assessed.

Count I alleged that Union Lakeville Corporation (Union Lakeville or respondent) violated the provisions of 8 U.S.C. § 1324a(a)(1)(B) by having failed to either prepare or make available for inspection Employment Eligibility Verification Forms (Forms I-9) for 10 employees. For these alleged infractions, INS assessed a total civil money penalty of \$3,600, or \$360 for each of the alleged offenses.

In Count II it was alleged that Union Lakeville had also violated the provisions of 8

U.S.C. § 1324a(a)(1)(B) by having failed to ensure that five employees properly completed Section 1 of their Forms I-9 and by also having failed to properly complete Section 2 of those Forms I-9. For those paperwork infractions, INS levied civil money penalties totaling \$1,900, or \$360 for each of four alleged violations and \$460 for the remaining alleged violation.

Count III alleged that Union Lakeville had also violated the provisions of 8 U.S.C. § 1324a(a)(1)(B) by having failed to properly complete Section 2 of the Forms I-9 for nine of its employees. For these alleged paperwork infractions, INS assessed civil money penalties totaling \$3,340, or \$360 for each of eight violations and \$460 for the remaining alleged infraction.

On January 28, 1999, the parties jointly filed a Motion to Dismiss accompanied by a Settlement Agreement, which resolves all matters in controversy.

Under the pertinent rule of OCAHO Rules of Practice and Procedure, 28 C.F.R. §§ 68.14(a)(1), (b), and (c), where the parties have submitted a settlement agreement containing consent findings and a proposed decision and order, the administrative law judge may, if satisfied with its timeliness, form and substance, accept such an agreement by issuing a decision and order based upon the agreed findings.

It is found that the terms of the Settlement Agreement comply with the applicable regulations and are appropriate in timeliness, form, and substance pursuant to the provisions of 28 C.F.R. §§ 68.14(b) and (c). It is further found, under the terms of the Settlement Agreement and pursuant to the provisions of that procedural rule, that:

1. Union Lakeville has withdrawn its request for a hearing on the merits;
2. Union Lakeville understands that the 24 allegations set forth in Counts I, II and III of the Complaint will be deemed to be first offenses of section 1324a and agrees to pay civil money penalties in the total amount of \$4,800 in the allocations set forth in the Settlement Agreement and subject to the default provisions also set forth therein;
3. Union Lakeville understands that the acknowledged 24 allegations contained in Counts I, II and III of the Complaint constitute first offenses and that any future violations of the provisions of 8 U.S.C. § 1324a by Union Lakeville will be treated as subsequent offenses for the purpose of assessing enhanced penalties;
4. The parties have waived any further procedural steps before the administrative law judge;
5. Each party shall bear its own costs and attorney's fees and any other expenses each has incurred in this action;
6. The parties have waived any right to challenge or contest the validity of this Final

Decision and Order;

7. The entire record on which this Final Decision and Order is based consists solely of the Complaint, the Notice of Hearing, and the Settlement Agreement, which are incorporated herein by reference;

8. This Final Decision and Order shall have the same force and effect as if this ruling had been issued following a full administrative hearing.

Order

The Settlement Agreement, which is dispositive of all issues herein, is approved and the Complaint is hereby ordered to be dismissed with prejudice to refiling.

Joseph E. McGuire  
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of January, 1999, I have served copies of the foregoing Final Decision and Order on the following persons at the addresses shown, in the manner indicated:

Office of the Chief Administrative Hearing Officer  
5107 Leesburg Pike, Suite 2519  
Falls Church, VA 22041  
(original hand delivered)

Dea Carpenter, Esq.  
Immigration and Naturalization Service  
425 "I" St., NW, Room 6100  
Washington, D.C. 20536-9999  
(one copy sent via regular mail)

Paul Szeto, Esq.  
Assistant District Counsel  
Immigration and Naturalization Service  
P.O. Box 2669  
New York, NY 10008-2669  
(one copy sent via regular mail)

William Psaros, President  
Union Lakeville Corporation  
d/b/a Skyline Diner Restaurant  
271-27 Union Turnpike  
New Hyde Park, NY 11040-9999  
(one copy sent via regular mail)

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Jeffrey C. Westcott  
Legal Technician to  
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